

ORDINANCE NO. XX-XX

An Ordinance adopted by the Gila County Board of Supervisors relating to the use of permissible consumer fireworks.

WHEREAS, the Gila County Board of Supervisors, pursuant to A.R.S. §11-251(31) and §11-251.5, may make and enforce all local police, sanitary, and other regulations not in conflict with general law; and,

WHEREAS, the Gila County Board of Supervisors, pursuant to A.R.S. §36-1606, may regulate the use of permissible consumer fireworks within the unincorporated areas of the county during times when there is a reasonable risk of wildfires in the immediate county; and,

WHEREAS, the Gila County Board of Supervisors is concerned about dry conditions, low humidity, increased wind conditions, high temperatures, and the increased chance of human caused fires; and,

WHEREAS, the Gila County Board of Supervisors has determined that the use of permissible consumer fireworks during times when there is a reasonable risk of wildfires in the immediate county contributes to this concern and threat; and,

WHEREAS, the United States Department of Agriculture, United States Forest Service, Tonto National Forest, prohibits fireworks at all times and open fires in the areas designated by order during times of high wildfire risk; and,

WHEREAS, the Gila County Board of Supervisors wishes to prohibit the use of permissible consumer fireworks within the unincorporated areas of the county at the same times when the United States Department of Agriculture, United States Forest Service, prohibits open fires designated by order, except as provided in this ordinance.

NOW THEREFORE, be it ordained by the Gila County Board of Supervisors that:

Definitions:

- 1.1 **Expenses of an emergency response** means reasonable costs directly incurred by public agencies, for-profit entities, or not-for-profit entities that make an appropriate emergency response to an incident.
- 1.2 **Reasonable costs** include the cost of providing police, fire fighting, rescue, and emergency medical services at the scene of an incident and the salaries of the persons who respond to the incident.
- 1.3 **Permissible consumer fireworks** means those fireworks defined by A.R.S. §36-1601.

- 1.4 **Fireworks** means any combustible or explosive composition, substance, or combination of substances, or any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, that is a consumer firework, display firework, or permissible consumer firework as defined by A.R.S. §36-1601.
- 1.5 **Novelty item** means federally deregulated novelty items that are known as snappers, snap caps, party poppers, glow worms, snakes, toy smoke devices, sparklers, and certain toys as defined in A.R.S. §36-1601.
- 1.6 **Display firework** means those fireworks defined by A.R.S. §36-1601.

Prohibition:

- 2.1 At any time when the United States Department of Agriculture, United States Forest Service, issues an order under Title 36, Section 261.52 of the Code of Federal Regulations placing open fire restrictions on fires within the Tonto National Forest, it shall be unlawful for any person to use, discharge, or ignite fireworks, including permissible consumer fireworks, except as provided in this section.
 - A. The use, discharge, or ignition of permissible consumer fireworks will be permitted, notwithstanding open fire restrictions, only on the third, fourth, and fifth of July on private property with the owner's permission in unincorporated areas.
- 2.2 Nothing in this section or article shall be construed to prohibit the use, discharge, or ignition of novelty items or the occurrence of a permitted public display of fireworks in unincorporated areas.
- 2.3 Permits may be granted by the District Fire Chief responsible for the unincorporated area to be permitted or Sheriff of Gila County to conduct a properly supervised public display of fireworks. Every such public display of fireworks shall be of such character and so located, discharged, or fired, only after proper inspection and in a manner that does not endanger persons, animals, or property. A permit shall not be issued, and may be revoked, during time periods of high fire danger warnings. The responsible Fire Chief or Sheriff of Gila County has authority to impose conditions on any permits granted.
 - A. The application for a permit shall be made in writing not less than five days prior to the date of the display to the District Fire Chief or Sheriff of Gila County.
 - B. The District Fire Chief or Sheriff of Gila County shall require each permittee to provide one of the following:

1. Satisfactory bond in a principal amount not less than five hundred dollars, or in such other amount as deemed appropriate by the issuing agency, conditioned upon payment of all damages which may be caused to persons or property by reason of the display.
2. Proof of liability insurance in a principal amount not less than five hundred dollars or in such other amount as deemed appropriate by the issuing agency, conditioned upon payment of all damages which may be caused to persons or property by reason of the display. The proof of liability insurance will include a letter from the issuing insurance company indicating that the applicant's insurance will cover the applicant for liability connected to the scheduled public display of fireworks.

Liability:

- 3.1 A person or entity who inappropriately or negligently uses, discharges, or ignites permissible consumer fireworks, fireworks, or anything this is designed or intended to rise into the air and explode or to detonate in the air or to fly above the ground, is liable for the expenses of any emergency response that is required by such use, discharge or ignition. The fact that a person is convicted or found responsible for a violation of this article is prima facie evidence of liability under this section.
- 3.2 The expenses of an emergency response are a charge against the person or entity liable for those expenses pursuant to section 1 of this ordinance. The charge constitutes a debt of that person and may be collected proportionately by the public agencies, for-profit entities, or not-for-profit entities that incurred the expenses. The person's liability for the expenses of an emergency response shall not exceed \$10,000.00 for a single incident. The liability imposed under this section is in addition to and not in limitation of any other liability that may be imposed.